

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael Dougherty

(b) County of Residence of First Listed Plaintiff Bucks County
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
Katherine C. Oeltjen, Esq., Console Mattiacci Law,
1525 Locust Street, 9th Fl., Philadelphia, PA 19102

DEFENDANTS

Fred Beans Holdings, Inc.; Fred Beans Automotive Group;
Fred Beans Cadillac-Oldsmobile, Inc.County of Residence of First Listed Defendant Bucks County
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. § 621, et seq. ("ADEA"); 43 P.S. § 951, et seq. ("PHRA")

Brief description of cause:

Plaintiff brings this action against his former employer for unlawful age discrimination.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
in excess of \$75,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

1/10/2023

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Pipersville, PA 18947

Address of Defendant: 841 N. Easton Road, Doylestown, PA 18902

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/10/2023 Katherine C. Oeltjen 318037
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☒ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Katherine C. Oeltjen, Esquire, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 01/10/2023 Katherine C. Oeltjen 318037
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**


CASE MANAGEMENT TRACK DESIGNATION FORM

Michael Dougherty	:	CIVIL ACTION
	:	
v.	:	
	:	
Fred Beans Holdings, Inc., et al.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

1/10/2023 <hr/> Date 215-545-7676 <hr/> Telephone	 <hr/> Attorney-at-law 215-565-2859 <hr/> FAX Number	Plaintiff, Michael Dougherty <hr/> Attorney for oeltjen@consolelaw.com <hr/> E-Mail Address
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**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL DOUGHERTY

Pipersville, PA 18947

Plaintiff,

v.

**FRED BEANS HOLDINGS, INC., FRED
BEANS AUTOMOTIVE GROUP, and
FRED BEANS CADILLAC –
OLDSMOBILE, INC.**

841 N. Easton Road

Doylestown, PA 18902

Defendants.

CIVIL ACTION NO.:

**COMPLAINT AND JURY TRIAL
DEMAND**

I. INTRODUCTION

Michael Dougherty (“Plaintiff”) brings claims against his former employers, Fred Beans Holdings, Inc., Fred Beans Automotive Group, and Fred Beans Cadillac – Oldsmobile, Inc. (collectively, “Defendants”), after being terminated on March 15, 2021, following a dedicated, eighteen (18)-year career. Plaintiff brings his claims pursuant to the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* (“ADEA”) and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”), and seeks all appropriate relief including back-pay, front-pay, compensatory and liquidated damages, and attorneys’ fees and costs.

II. PARTIES

1. Plaintiff is an individual and a citizen of the Commonwealth of Pennsylvania. He resides in Pipersville, PA 18947.

2. Plaintiff was born in 1956 and is currently sixty-six (66) years old.

3. Defendants are organized under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 841 N. Easton Road, Doylestown, PA 18902.

4. Defendants are engaged in an industry affecting interstate commerce and regularly do business in the Commonwealth of Pennsylvania.

5. At all times material hereto, Plaintiff worked out of Defendants' facilities in Pennsylvania.

6. At all times material hereto, Defendants employed twenty (20) or more employees.

7. At all times material hereto, Defendants acted by and through authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendants and in furtherance of its business.

8. At all times material hereto, Defendants were employers within the meaning of the statutes which forms the basis of this matter.

9. At all times material hereto, Plaintiff was an employee of Defendants within the meaning of the statutes which forms the basis of this matter.

III. JURISDICTION AND VENUE

10. The causes of action which form the basis of this matter arise under the ADEA and the PHRA.

11. The District Court has jurisdiction over Count I (ADEA) pursuant to 28 U.S.C. §1331.

12. The District Court has supplemental jurisdiction over Count II (PHRA) pursuant to 28 U.S.C. § 1367.

13. Venue is proper in the District Court under 28 U.S.C. §1391(b).

14. On or about June 24, 2021, Plaintiff filed a Charge of Discrimination with the Pennsylvania Human Relations Commission (“PHRC”), which was cross-filed with the Equal Employment Opportunity Commission (“EEOC”), complaining of the acts of discrimination alleged herein. Attached hereto and incorporated herein and marked as Exhibit “1” is a true and correct copy of the Charge of Discrimination (with personal identifying information redacted).

15. On or about October 13, 2022, the EEOC issued a Dismissal and Notice of Rights for Plaintiff’s Charge of Discrimination. Attached hereto and marked as Exhibit “2” is a true and correct copy of that notice (with personal identifying information redacted).

16. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

17. Plaintiff was hired by Defendants on or about November 2, 2002.

18. Plaintiff had more than eighteen (18) years of service at Defendants.

19. Plaintiff consistently performed his job duties in a highly competent manner and received positive feedback.

20. Plaintiff was awarded Salesman of the Year for seventeen (17) years and was frequently awarded Salesman of the Month.

21. Plaintiff last held the position of Sales Representative.

22. Plaintiff last reported to John Brady, Jr. (52¹), General Sales Manager, and Paul Pera (57), Sales Manager. Brady and Pera reported to Fred Beans, President.

23. Neither Brady nor Pera had any role in Plaintiff being hired.

¹ All ages herein are approximations of the individuals’ current ages made to the best of Plaintiff’s information and belief.

24. Plaintiff was the second oldest Sales Representative employee reporting to Brady and Pera.

25. Management employees, including Brady, Pera, Matt Heise (47), then Sales Manager, Virginia Krause (54), Manager, and Scott Hall (60), General Sales Manager, repeatedly asked Plaintiff when he was going to retire.

26. Plaintiff consistently stated that he had no plans to retire.

27. On March 15, 2021, in a meeting with Beans and Pera, Defendants terminated Plaintiff's employment, effective immediately.

28. Defendants provided no explanation, including the selection criteria, as to why Plaintiff was terminated. Plaintiff received no documents in connection with his termination.

29. Defendants terminated Plaintiff's employment because of his age.

30. Before the termination meeting, Plaintiff had no indication his job was in jeopardy.

31. Defendants replaced Plaintiff by hiring a substantially younger, external candidate who was approximately twenty-five (25) years old at the time, to be a Sales Representative. Plaintiff was more qualified to perform his job than the substantially younger employee with whom Defendants replaced him.

32. Plaintiff was the only employee who was terminated on March 15, 2021.

33. Defendants retained all the younger employees—many of whom were substantially younger than Plaintiff—reporting to Brady and Pera when he was terminated.

34. Defendants provided no explanation, including the selection criteria, as to why Plaintiff was terminated and the younger employees were retained.

35. At the time of Plaintiff's termination, the following Sales Representative employees were reporting to Brady and Pera. Plaintiff was more qualified than each of these employees.

- a. James Roebuck (37);
- b. Rob Ferguson (45);
- c. Sean Winder (48);
- d. Keith Hughes (52);
- e. Robert Swider (60);
- f. Paul Rosenberg (62);
- g. Lou Carpenter (65);
- h. Steve Chisak (72).

36. Defendants did not offer Plaintiff any opportunity or option to remain employed with Defendants.

37. Defendants' age discrimination against Plaintiff has caused him emotional distress.

38. Plaintiff's age was a motivating and/or determinative factor in connection with Defendants' discriminatory treatment of Plaintiff, including, without limitation, in connection with Plaintiff's termination.

39. Defendants' stated reasons for the discriminatory termination of Plaintiff is pretextual.

40. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity,

loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

41. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory acts unless and until this Court grants the relief requested herein.

COUNT I – ADEA

42. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

43. By committing the foregoing acts of discrimination against Plaintiff, Defendants violated the ADEA.

44. Defendants' violations of the ADEA were intentional and willful under the circumstances, warranting the imposition of liquidated damages.

45. As a direct and proximate result of Defendants' violations of the ADEA, Plaintiff has suffered the injuries, damages, and losses set forth herein.

46. Plaintiff is entitled to all costs and attorneys' fees incurred as a result of the unlawful behavior complained of herein.

COUNT II – PHRA

47. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

48. By committing the foregoing acts of discrimination against Plaintiff, Defendants have violated the PHRA.

49. Said violations were intentional and willful.

50. As a direct and proximate result of Defendants' violations of the PHRA, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

51. Plaintiff has suffered, and may continue to suffer, irreparable injury and monetary damages as a result of Defendants' discriminatory acts unless and until this Court grants the relief requested herein.

RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendants:

- (a) declaring the acts and practices complained of herein to be a violation of the ADEA;
- (b) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (c) enjoining and restraining permanently the violations alleged herein;
- (d) entering judgment against Defendants and in favor of Plaintiff in an amount to be determined;
- (e) awarding compensatory damages to Plaintiff to make Plaintiff whole for all past and future lost earnings, benefits, and earning capacity, which Plaintiff has suffered and will continue to suffer as a result of Defendants' discriminatory and unlawful misconduct;
- (f) awarding compensatory damages to Plaintiff for past and future emotional upset, mental anguish, humiliation, loss of life's pleasures, and pain and suffering;
- (g) awarding liquidated damages;
- (h) awarding Plaintiff costs of this action, together with reasonable attorney's fees;
- (i) awarding Plaintiff such other damages as are appropriate under the ADEA and the PHRA; and

(j) granting such other and further relief as this Court deems appropriate.

CONSOLE MATTIACCI LAW, LLC

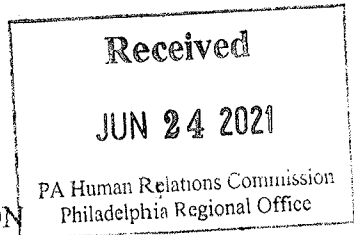
Dated: January 10, 2023

BY: /s/ Katherine C. Oeltjen
Katherine C. Oeltjen, Esquire
1525 Locust St., 9th Floor
Philadelphia, PA 19102
Telephone: (856) 854-4000
Facsimile: (215) 565-2852

Attorneys for Plaintiff

Exhibit “1”

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION



COMPLAINT

COMPLAINANT:

MICHAEL DOUGHERTY

v.

RESPONDENTS:

FRED BEANS HOLDINGS, INC.

and

FRED BEANS AUTOMOTIVE GROUP

and

FRED BEANS CADILLAC –
OLDSMOBILE, INC.

Docket No. 202002920

1. The Complainant herein is:

Name: Michael Dougherty

Address: 
Pipersville, PA 18947

2. The Respondents herein are:

Name: Fred Beans Holdings, Inc.; Fred Beans Automotive Group; Fred Beans Cadillac – Oldsmobile, Inc.

Address: 841 N. Easton Road
Doylestown, PA 18902

3. I, Michael Dougherty, the Complainant herein, allege that I was subjected to unlawful discrimination because of my age (64), as set forth below.

Discrimination

A. I specifically allege:

- [1] I was hired by Respondents on or about November 2, 2002.
- [2] I had more than eighteen (18) years of service at Respondents.
- [3] My birth date is October [REDACTED], 1956, and I am age sixty-four (64).
- [4] I consistently performed my job duties in a highly competent manner and received positive feedback. I was awarded Salesman of the Year for seventeen (17) years and was frequently awarded Salesman of the Month.
- [5] I last held the position of Sales Representative.
- [6] I last reported to John Brady, Jr. (50¹), General Sales Manager, and Paul Pera (55), Sales Manager. Brady and Pera reported to Fred Beans, President.
- [7] Neither Brady nor Pera had any role in my being hired.
- [8] I was the second oldest Sales Representative employee reporting to Brady and Pera.
- [9] Management employees, including Brady, Pera, Matt Heise (45), then Sales Manager, Virginia Krause (52), Manager, and Scott Hall (58), General Sales Manager, repeatedly asked me when I was going to retire.
- [10] I consistently stated that I had no plans to retire.
- [11] On March 15, 2021, in a meeting with Beans and Pera, Respondents terminated my employment, effective immediately. Respondents provided no explanation,

¹ All ages herein are approximations.

including the selection criteria, as to why I was terminated. I received no documents in connection with my termination.

[12] Respondents terminated my employment because of my age.

[13] Before the termination meeting, I had no indication my job was in jeopardy.

[14] Respondents replaced me with _____ (25), Sales Representative, an external candidate. I was more qualified to perform my job than the substantially younger employee with whom Respondents replaced me.

[15] I was the only employee who was terminated on March 15, 2021.

[16] Respondents retained all the younger employees—many of whom were substantially younger than me—reporting to Brady and Pera when I was terminated.

[17] Respondents provided no explanation, including the selection criteria, as to why I was terminated and the younger employees were retained.

[18] At the time of my termination, the following Sales Representative employees were reporting to Brady and Pera. I was more qualified than each of these employees.

- a. James Roebuck (35);
- b. Rob Ferguson (43);
- c. Sean Winder (46);
- d. Keith Hughes (50);
- e. Robert Swider (58);
- f. Paul Rosenberg (60);
- g. Lou Carpenter (63);

h. Steve Chisak (70).

[19] Respondents did not offer me any opportunity or option to remain employed with Respondents.

[20] Respondents' age discrimination against me has caused me emotional distress.

B. Based on the aforementioned, I allege that Respondents have discriminated against me because of my age (64), in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 623 *et seq.* ("ADEA"), and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA").

4. The allegations in Paragraph 3 hereof constitute unlawful discriminatory practices in violation of:

 X Pennsylvania Human Relations Act (Act of October 27, 1955, P.L. 744, as amended) Section 5 Subsection(s): (a)

 Section 5.1 Subsection(s) _____

 Section 5.2 Subsection(s) _____

 Pennsylvania Fair Educational Opportunities Act (Act of July 17, 1961, P.L. 766, as amended) Section 4 Subsection(s) _____

5. Other action based upon the aforesaid allegations has been instituted by the Complainant in any court or before any other commission within the Commonwealth of Pennsylvania as follows:

 X This charge will be referred to the EEOC for the purpose of dual filing.

6. The Complainant seeks that Respondents be required to:

- (a) Make the Complainant whole.
- (b) Eliminate all unlawful discriminatory practice(s) and procedure(s).
- (c) Remedy the discriminatory effect of past practice(s) and procedure(s).
- (d) Take further affirmative action necessary and appropriate to remedy the violation complained of herein.
- (e) Provide such further relief as the Commission deems necessary and appropriate.

VERIFICATION

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 P.A.C.A. Section 4904, relating to unsworn falsification to authorities.

6-24-21

(Date Signed)



(Signature) Michael Dougherty



Pipersville, PA 18947

Exhibit “2”

EEOC Form 161-B (01/2022)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Michael Dougherty**
[REDACTED]
Pipersville, PA 18947

From: **Philadelphia District Office**
801 Market St, Suite 1000
Philadelphia, PA 19107

EEOC Charge No.
17F-2021-61461

EEOC Representative
Damon Johnson,
State, Local & Tribal Program Manager

Telephone No.
(267) 589-9722

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.*** Otherwise, your right to sue based on the above-numbered charge will be lost.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Please retain this notice for your records.

On behalf of the Commission

Digitally Signed By: Karen McDonough
10/13/2022

Enclosures(s)

Karen McDonough
Deputy District Director

cc:

For Respondent
Jacqueline K Gallagher, Esq.
Three Logan Square
1717 Arch Street, Suite 3910
Philadelphia, PA 19103

For Charging Party
Emily R Derstine Friesen, Esq.
Console Mattiacci Law, LLC
1525 Locust Street, 9th Floor
Philadelphia, PA 19102